

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of this application in view of the following remarks.

Claim Rejection under 35 U.S.C. § 103(a)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Response to Rejection of Claims 1-76 under 35 U.S.C. § 103(a) – Eilbacher in view of Garrido

The Office has rejected claims 1-72 under 35 U.S.C. 103(a) as being unpatentable over Eibacher et al. (Eibacker) [sic], (US 6,959,078) 25 October 2005, in view of Garrido (Southeast Asia; Call it a boom: Philippine call centers; Internet printout; 4 pages; 04/22/2003).

Applicant respectfully points out that according to the MPEP §2142, "to establish a *prima facie* case of obviousness, three basic criteria must be met:

- 1st there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings;

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

- 2nd there must be a reasonable expectation of success;
- 3rd the prior art reference (or references when combined) must teach or suggest all of the claim limitations.”

These criteria have not been met by the Office's rejection of Applicant's claims 1-72.

The Office states on pp 2-3:

“Claims 1-72. Eilbacker et al. teaches a method, system and computer-readable medium having instruction embedded therein for causing a computer to implement said method for analyzing a call agent performance, comprising:

receiving a storable representation of a service call between an agent of a business and customers wherein the business is located in a first geographic area (C. 5, L. 10-17);

analyzing the storable representation, in a second geographic area (a quality management system 30 is located remotely from the customers and agents) to determine the service quality provided to a customer by the agent (C. 5, L. 10-17; C. 8, L. 7-37);

generating report data associated with the analyzing (C. 5, L. 15).

While Eilbacker et al. teaches that said quality management system 30 can be located anywhere in the world, Eilbacker et al. does not teach that said second geographic area is subject to a wage attenuator; and that wage attenuation is utilized to reduce a cost of analyzing the service call in the second geographic area relative to the cost of analyzing the call in the first geographic area.

Garrido discloses a practice of outsourcing various jobs in the countries, having lower wages. Specifically, India and Philippine were discussed as the countries where local citizens are paid much less than workers doing same job in the USA (See first and third pages).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Eilbacker et al. to include that said second

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

geographic area is subject to a wage attenuator; and that wage attenuation is utilized to reduce a cost of analyzing the service call in the second geographic area relative to the cost of analyzing the call in the first geographic area, as disclosed in Garrido, because it would advantageously allow to save funds and decrease the turnover rate for call centers, as specifically stated in Garrido.

Furthermore, Eilbacher et al. discloses notifying the agent of the results of the analysis, including displaying warning and congratulatory messages (C. 4, L. 37-44)."

Office Action, January 16, 2007, pages 2-3.

Eilbacher states at Column 5, lines 10-17:

"The present invention is also directed to a method for displaying contact center information, including recording data associated with one or more communications with a contact center, wherein the *recording* is *based on* one or more *recording rules*; comparing the recorded data against predetermined contact center parameters; displaying messages to contact center personnel, reporting contact center activity as compared against the parameters; and storing said displayed messages."

Eilbacher, Column 5, lines 10-17 (emphasis added).

Eilbacher states at Column 8, lines 7-37:

"Contact center monitors, supervisors, clients, and third party reviewers (hereinafter collectively referred to as "users") alike can access the communication information via the Internet for recreation of the entire communication/transaction. Contact center clients therefore have the ability to directly evaluate communications made by their customers and to distribute these communications within their respective organization for further evaluation and review. As a result of the present invention, access to contact center transactional data is no longer limited by the number of monitor workstations 112' connected to the system because, with the present invention, any number of Internet-accessible users with proper authorization and a multimedia playback browser can query the data anytime, from anywhere.

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

A key feature of the present invention is the ease of remote access to the data by users. The user is no longer restricted to the proprietary equipment and software of a telephone call center to conveniently and economically access the full wealth of information that is recorded and subsequently made available for review and analysis by the present open storage portal operating with the communication contact center. The user has the option of selecting particular transactions to review, such as all calls for a particular client, for a particular product, to a particular agent, during a particular time frame, etc. In this manner, the users have web-based browser access to the full range of contact center data from anywhere in the world and are not constrained by a requirement for proprietary hardware and software in network proximity to the contact center.

Eilbacher, Column 8, lines 11-37.

Applicant submits that Eilbacher does not teach all of Applicant's claim limitations. Neither does Eilbacher in view of Garrido teach all of Applicant's claim limitations. Eilbacher only records certain contact center data, "wherein the recording is based on one or more recording rules; comparing the recorded data against predetermined contact center parameters; displaying messages to contact center personnel, reporting contact center activity as compared against the parameters; and storing said displayed messages."

Eilbacher, Column 5, Lines 13-14.

Eilbacher states that an object of the Eilbacher invention is "to automate the process by which the electronic data associated with the operation of a contact center is selectively recorded and analyzed." Eilbacher, Column 4, Lines 27-29. Eilbacher characterizes its invention as follows: "[t]he dynamic recording system of the present invention provides a broadly available doorway to a full range of electronic data recorded during the operation of a contact center 40, such as a telephone contact center. As used herein, the term, 'contact

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

center' refers to a telephone call center that provides information and **analysis** of the operation and utilization of the center facilities." Eilbacher, Column 7, Lines 24-30.

Eilbacher's teaches that the primary functions of its analyzer 400 are limited to: [t]he data analyzer 400 has two primary functions; a reporting process and recording rules management." Eilbacher, Column 9, Lines 27-29. Eilbacher goes on to teach that "the data analyzer 400 gleans agent performance information from the data and compares the performance of each agent against a predetermined set of standards or goals for agents as maintained in the contact center's standards database 460." Eilbacher, Column 9, Lines 30-33. Eilbacher teaches that "performance information" consists of:

1. transactions completed by the agent's shift or month-to-date;
2. the elapsed number of minutes/hours online with the current customer, and
3. the number of calls waiting in queue for that agent or that agent's group.

Eilbacher, Column 9, Lines 55-63.

Eilbacher's teaches that "[t]he data analyzer 400 analyzes the environmental data 450 as isolated data, as compared to historical environmental data retained by the system in the history database 462, and as compared to contact center standards as maintained in the standards database 460. The results from the analysis can be output by the report generator 464 in the form of reports.....the reports can list the temperature and humidity at various agents' workstations 104 across time." Eilbacher, Column 10, Lines 2-11.

It is important to note that while Eilbacher uses the words "analysis" and "report," these words are used differently by Eilbacher and Applicant. Eilbacher does not teach as Applicant teaches that:

Response to Non-Compliant
Amendment of 09-21-2007

Page 22 of 34

Application No. 10/691,777

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

[0036] "...the analysts review and evaluate agent/customer interactions to ensure that the agents have met quality of service criteria established for a particular business." In one embodiment, the evaluation process includes the areas of core skills, soft skills, selling skills, and specific know how. The analysts check core skills by analyzing the agent's method and competence in; answering the phone and greeting the customer; getting the order in the system; answering basic questions; and comprehension of a request made via email. Some reporting metrics used for report generation include the average call handle time and spelling and grammar used accurately during the interaction with the customer. Soft skills are checked by analyzing whether the agent's greetings are scripted; determining how "canned" the email responses are; determining whether the agent can handle an irate customer under pressure; and analyzing the agent's knowledge of when to engage the agent's supervisor to resolve the call. Some reporting metrics used for report generation for soft skills include whether the customer's issue was resolved with the first call, this includes metrics related to specific know how (i.e., technical support/knowledge), and how many repeat emails were required to resolve the customer's issue. Analyzing selling skills involves ranking the agent's ability to; recommend additional products (cross-sell); sell more of the product under discussion by successfully understanding the tone and intonation of the customer during the interaction; and comprehension of the products and services. Some reporting metrics used in report generation for selling skills include measurements of the agent's up-sell and cross-sell performance. In some embodiments, reporting can include scoring compliance with regulations such as the Telephone Consumer Protection Act (TCPA) or other regulations.

[0037] For example, if the customer interaction consisted of an inbound sales call where a customer called to place an order for a product, such as a camera, some of the criteria the analyst will be looking for are whether the agent has opened the call properly, acted courteously, attempted to up-sell

Appl. No. 10/691,777

Response dated January 22, 2008

Reply to Notice of Non-Compliant Amendment of 09/21/2007

(i.e., sell a higher end camera), cross-sell and add-on-sell (i.e., selling film and a camera accessory bag with the original camera order) the customer, and checking to determine if the agent was knowledgeable enough to meet the demands of the sale in order to accomplish the up-sell or cross-sell (e.g., could the agent explain the features and benefits and answer technical questions related to the product). Other criteria are employed as are appropriate for a particular industry. For example, in one embodiment, analysts will grade the interactions according to established quality monitoring criteria for a particular industry sector or a particular business. In one embodiment, an agent's performance is sampled at least once a day by the analysts generating report data and agent feedback. Report data is stored in data base 114 for later use and a portion thereof is tailored for the business and the business's agents at 108. Feedback is provided to the business and the agents at 260.

Applicants Specification, ¶ [0036-0037].

Applicant's Specification states that "**Figure 2B and Figure 2C** "display an embodiment of a score sheet that can be used by an analyst to evaluate and score a transaction between an agent and a customer." Applicants Specification, ¶ [0039].

Applicant's **Figure 2B and Figure 2C** are presented below. Eilbacher's analyzer 400 is incapable of determining quality of service as Applicant does in Applicant's claims 1 through 76. Eilbacher's reports do not contain Applicant's "calibrated measurement of quality of service rendered by the agent to the customers." Applicant's Claim 1.

Appl. No. 10/691,777

Response dated January 22, 2008

Reply to Notice of Non-Compliant Amendment of 09/21/2007

TITLE: BUSINESS PERFORMANCE AND CUSTOMER CARE QUALITY
 MEASUREMENT
 Inventor: David M. Lee 206-447 6
 Docket No.: 062403.P001
 Express Mail No.: ER 318145750 US
 Filing Date: October 22, 2003
 Page 3 of 12

FIG. 2B

260a

262

SCORING PARAMETERS

Moving forward all the UK RMA's will be shipped from the fulfillment center in France.....Moving forward all the

Customer Service Competencies

Call Opening

- Used Proper Greeting. Score: _____ 266
- Asked for Transaction ID. Score: _____ 268
- Verified the Customer's Information. Score: _____

Comments: _____ 270

Customer Service Skills (Accent and Voice)

- Used good grammar, avoids slang or jargon. Score: _____ 272
- Rate of Speech mirrored that of customer. Score: _____
- Hold courtesies were followed. Score: _____
- Sounded confident, friendly, and polite. Score: _____
- Set customer's expectations, used empathy if necessary escalated to a supervisor if necessary Score: _____

Comments: _____

Call Closing

- Offered additional products. Score: _____ 280
- Used proper closing script. Score: _____

Comments: _____

Knowledge, Accuracy and Resolution

- Demonstrate knowledge of the product process. Score: _____ 282
- Credit card authorization process followed. Score: _____
- Offered alternate products; add on sales. Score: _____
- Accurate and concise information was given to the customer. Score: _____

Appl. No. 10/691,777
 Response dated January 22, 2008
 Reply to Notice of Non-Compliant Amendment of 09/21/2007

FILE: BUSINESS PERFORMANCE AND CUSTOMER CARE QUALITY
 MEASUREMENT
 Inven: Howard M. Lee 206 1336
 Docket No.: 062403.P001
 Express Mail No.: ER 318145750 US
 Filing Date: October 22, 2003
 Page 4 of 12

FIG. 2C

Call Management 284

- Controlled call pace efficiently and length of call was appropriate to request. Score: _____
- Controlled call tone and length. Score: _____

Comments: _____

Sales 260b

- Identified sales opportunities. Score: _____
- Suggested alternate compatible products in exchange for return. Score: _____

Comments: _____

Comments Summary: 286

Even better tips: 288

290

Applicant's Specification Figure 2B and Figure 2C.

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

Eilbacher teaches applying "rules" to the collection of contact center data using data analyzer 400. "As regards the recording rules management portion of the function of the data analyzer 400, the data analyzer 400 can automatically and dynamically (in real time) implement a new set of recording rules for capturing both the communications data 451 and the environmental data 450." Eilbacher, Column 10, Lines 44-48. Thus, Eilbacher teaches away from Applicant's invention by allowing the data analyzer to "automatically and dynamically) change the recording rules. Such automatic ability as taught by Eilbacher does not make Applicant's invention; to the contrary it prohibits the enablement of it. Applicant teaches in its Specification and claims in claims 4, 5, 28, 50, 52, 55, 20, 29, 43, and 65 techniques that require at least one of the agent's service calls per day to be recorded so that it can be analyzed for quality of service on this frequency. Automatically resetting recording rules by Eilbacher's data analyzer 400 would prevent such periodic recording from occurring. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Independent Claims 18, and 54 – Eilbacher in view of Garrido

With respect to Applicant's amended claims 18 and 54, Eilbacher does not teach, as Applicant teaches:

"providing the storable representation to an analyst, in the second geographic area, to determine quality of service provided to a customer by the agent wherein the second geographic area is subject to a wage attenuator and the

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

analysts has been trained to provide a calibrated determination of quality of service."

Eilbacher teaches:

"Periodically, the recorded communications data and stored environmental data is analyzed by the system. Based on the analysis, the set of **recording rules** that is actively controlling the recording of the communication data may be changed by the system." Eilbacher, Column 4, Lines 33-35 (emphasis added).

Eilbacher's recording rules merely specify which calls are recorded by the "automated" system. Eilbacher does not teach how to obtain a calibrated determination of the quality of service which is provided by an analyst. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Additionally, with respect to Applicant's amended claims 18 or 54, Eilbacher does not teach, as Applicant teaches: "generating report data associated with the calibrated determination of quality of service." Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 6-8, 21-23, 30-32, 45-47, 57-58, 61-63, and 67 – Eilbacher in view of Garrido

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

The Office points out (Office Action, Page 3, Paragraph 4) that Eilbacher "discloses notifying the agent of the results of the analysis, including displaying warning and congratulatory messages":

Eilbacher states at Column 5, lines 15:

..... displaying messages to contact center personnel,...

Eilbacher, Column 5, lines 15

Eilbacher states at Column 4, lines 37-44:

Also as a result of the analysis, displayed messages may be projected onto contact center-wide displays, agent workstation displays, and supervisor workstation displays. The displayed information may range from daily contact center statistics, to a warning that a incoming call queue has an excessive wait time, to a congratulatory message to an agent who has exceeded a particular contact center performance standard.

Eilbacher, Column 4, lines 37-44

Such notifications by Eilbacher to an Agent are not equivalent to Applicant's claims 6-8, 21-23, 30-32, 45-47, 57-58, 61-63, and 67. Eilbacher does not teach a calibrated determination by an analyst of a quality of service rendered by an agent during a customer-agent interaction. Nor does Eilbacher teach an analysis, by an analyst, of a customer-agent interaction that embraces the scoring parameters shown in Figure 2B and 2C of Applicant's specification. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

Applicant's Independent Claims 1, 25, 42, 49, 64, and 69 – Eilbacher in view of Garrido

As noted above, Eilbacher does not teach “a calibrated determination of the quality of service rendered by the agent.” Therefore, Eilbacher does not render obvious what Applicant has claimed. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 4, 5, 20, 28, 29, 43, 50, 52, 55, 60, and 65 – Eilbacher in view of Garrido

Eilbacher does not teach an analyzing frequency of “at least once per day,” “at least one call per day” or greater being applied to an agent's interactions or calls. Eilbacher teaches away from applying such an analysis frequency to an agent by virtue of Eilbacher's automated change of “recording rules.” Thus, Eilbacher would not enable Applicant's invention, but would in fact prevent the enablement. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 17, 24, 41, 48, 53, 59, 68 – Eilbacher in view of Garrido

Eilbacher does not teach transferring “a debit or a credit” in exchange for a calibrated determination of “quality of service.” Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

Applicant's Claims 2-3, 9-16 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 1, Eilbacher does not disclose a limitation of claim 1 upon which claims 2, 3, 9, 10, 11, 12, 13, 14, 15, or 16 depend. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claim 19 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 18, Eilbacher does not disclose a limitation of claim 18 upon which claim 19 depends. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 26-27, 33-40 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 25, Eilbacher does not disclose a limitation of claim 25 upon which claims 26-27, 33-40 depend. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claim 44 – Eilbacher in view of Garrido

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

As noted above in the discussion of independent claim 42, Eilbacher does not disclose a limitation of claim 42 upon which claim 44 depends. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claim 51 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 49, Eilbacher does not disclose a limitation of claim 49 upon which claim 51 depends. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 56 and 60 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 54, Eilbacher does not disclose a limitation of claim 54 upon which claims 56 and 60 depend. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claim 66 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 64, Eilbacher does not disclose a limitation of claim 64 upon which claim 66 depends. Neither does Garrido cure

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's Claims 70-72 – Eilbacher in view of Garrido

As noted above in the discussion of independent claim 69, Eilbacher does not disclose a limitation of claim 69 upon which claims 70-72 depend. Neither does Garrido cure this defect. Finally, the combination of Eilbacher in view of Garrido fails to disclose or make obvious what Applicant has claimed.

Applicant's New Claims 73-76

Eilbacher and Garrido either singly or in combination do not teach "training the analyst." Neither do these references teach calibration of a group of analysts. Neither do these references teach using a higher frequency to accelerate training of the analysts. Neither do these references teach that the higher frequency is approximately six times a day. Thus, the cited references do not disclose Applicant's claim limitations

The cited art of record, either singly or in combination, does not teach all of Applicant's claim elements. Therefore, the Office has failed to make out the required prima facie case of obviousness required to sustain a 35 U.S.C. 103(a) rejection and the rejection should be withdrawn.

Appl. No. 10/691,777
Response dated January 22, 2008
Reply to Notice of Non-Compliant Amendment of 09/21/2007

CONCLUSION

Claims 1, 5, 18, 20, 25, 29, 42, 43, 49, 50, 51, 54, 55, 64, 65, 69, and 70 have been amended.

Claims 73, 74, 75, and 76 are new.

Applicant respectfully submits that all claims are in condition for allowance and requests such.

Communication via cleartext email is authorized.

Respectfully submitted,
PELOQUIN, PLLC

January 22, 2008
Date

Mark S. Peloquin, Esq.
Mark S. Peloquin, Esq.
USPTO Registration # 50,787

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted herewith via facsimile transmission to Telephone No. (571) 273-8300 on the date indicated below and is addressed to: Mail Stop AMENDMENT, Commissioner for Patents, Box 1450, Alexandria, Virginia 22313-1450.

Date of Deposit: 22 JAN 2008

Stephanie W. Roberts
(Typed or printed name of person transmitting paper or fee)

[Signature]
(Signature of person transmitting paper or fee)

22 JAN 2008
Date